REMARKS

Claims 1, 8-10, 17-20, 23-24, 28-33 and 35-105 are currently pending. All of these claims were rejected in a Final Office Action mailed June 8, 2009. Claims 1, 17, 28, 33, 35, 38, 40, 52, 64, 76, 86 and 96 are amended herein. No claims are canceled, and no claims are added. No new matter is added by way of this amendment. After entry of the instant response to the Final Office Action, Claims 1, 8-10, 17-20, 23-24, 28-33 and 35-105 will be pending.

Claim Rejections - 35 U.S.C. § 103

Claims 1, 8-10, 17-20, 23-24, 28-33, 35-105 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Danieli et al., U.S. Patent No. 7,240,093 B1 (hereinafter "Danieli") in view of Beuk et al., U.S. Patent No. 5,774,673 (hereinafter "Beuk").

To further clarify and distinguish the claimed invention over the cited prior art, Claims 1, 17, 28, 33, 35, 38, 40, 52, 64, 76, 86 and 96 are amended herein. For example, amended Claim 1 at least recites "logic to couple a game client to a messenger client to allow the game client to determine an ability of the messenger client to receive messages and to create and send to the messenger client data used to initiate joining a game." Support for these amendments can be found throughout the application as originally filed, including page 8, lines 22-30, page 9, line 33 – page 10, line 4, and figure 7.

Moreover, Claim 17 is further amended herein to at least recite "the plurality of game clients and plurality of messenger clients in respective communication with a game server and a messenger server." Support for this amendment can be found throughout the application as originally filed, including page 3, lines 6-16, and Figures 1 and 11E.

Danieli fails to suggest logic to allow the game client to determine an ability of the messenger client to receive messages, as taught by amended Claim 1. The Final Office Action (FOA) asserts that the claimed game client is suggested by Danieli, Figure 19, elements 72 and 162, and that the claimed messenger client is suggested by Danieli, Figure 19, element 32 (see FOA,

17

page 3, last paragraph). However, Danieli does not suggest that elements 72 and 162 (the FOA's proposed game clients) determine an ability of element 32 (the FOA's proposed messenger client) to receive messages, such as the claimed game client. Further, it should be noted that Danieli's elements 72 and 162 (the FOA's proposed game clients) appear to be dialogs that are launched from Danieli's Sidewinder gaming utility, and as such elements 72 and 162 would not need to determine that the dialog from which they were launched (element 32, the FOA's proposed messenger client) is able to receive messages.

Moreover, Applicant's representative respectfully disagrees with the Final Office Action's assertion that Danieli's elements 72 and 162 suggest the claimed game client of amended Claim 1. Danieli describes element 72 as a "chat room pane" that is "displayed adjacent to UI FRAME 32" when the user initiates a new chat session (Danieli, Fig. 8; col. 8, lines 4-13) from element 32, and Danieli describes element 162 as a "cascaded game selection menu" that is displayed when the user selects the "Start a Game" option in element 72 (Danieli, Fig. 19; col. 16, lines 50-52). Thus, Danieli's system displays these dialogs to allow the user to **select** a game to play, but these dialogs are not an actual **game client** such as the game client taught by amended Claim 1.

Finally, with regard to amended Claim 1, Beuk also fails to suggest the claimed logic to allow the game client to determine the messenger client's ability to receive messages and to create and send to the messenger client data used to initiate joining a game. Although Beuk discusses a system in which a first apparatus sends a "broadcast frame" (e.g. a message) to other apparatuses to coordinate the launching of an application, Beuk states that the first apparatus "does not require any pre-knowledge of which apparatuses are present" (Beuk, col. 2, line 53 – col. 3, line 26). Thus, Beuk does not suggest determining whether a recipient is able to receive messages, such as the claimed game client determining whether a messenger client is able to receive messages. For at least these reasons, amended Claim 1 is not obvious in view of the proposed combination of Danieli and Beuk. Accordingly, withdrawal of the rejection of Claim 1 under 35 U.S.C. § 103(a) is requested.

18

Because amended Claim 17 recites similar, albeit different, elements to those of amended Claim 1, the arguments made with regard to amended Claim 1 apply as well to amended Claim 17. Further, Danieli fails to suggest the plurality of game clients and plurality of messenger clients in **respective** communication with a game server and a messenger server (e.g., game clients in communication with a game server, and messenger clients in communication with a messenger server), as taught by amended Claim 17. As discussed herein, the FOA asserts that the claimed game client is suggested by the dialog windows labeled elements 72 and 162 in Danieli's Figure 19, and that the claimed messenger client is suggested by Danieli's "Sidewinder game utility," Figure 19, element 32 (see FOA, page 3, last paragraph). However, instead of the claimed game clients in communication with a game server but not a messenger server, Danieli's elements 72 and 162 (the FOA's proposed game clients) appear to be in communication with a messenger server. In particular, as described by Danieli, once a user selects a DIRECTPLAY Lobby game from dialog element 162, the game is "automatically launched on all of the **chat** participants' computers" (Danieli, col. 16, lines 44-65, emphasis added). Thus, Danieli's element 162 interacts through the chat system (i.e., the MSN messenger server) to launch the remote games, and is thus in communication with a messenger server, unlike the game clients in communication with a game server as claimed. Moreover, Beuk also fails to suggest this element of amended Claim 17. For at least these reasons, amended Claim 17 is not obvious in view of the proposed combination of Danieli and Beuk. Accordingly, withdrawal of the rejection of Claim 17 under 35 U.S.C. § 103(a) is requested.

Amended Claims 28, 33, 35, 38, 40, 52, 64, 76, 86 and 96 recite similar, albeit different, elements to those of amended Claim 1. Therefore, for at least the reasons given with regard to amended Claim 1, amended Claims 28, 33, 35, 38, 40, 52, 64, 76, 86 and 96 are also not obvious in view of the proposed combination of Danieli and Beuk. Accordingly, withdrawal of the rejection of Claims 28, 33, 35, 38, 40, 52, 64, 76, 86 and 96 under 35 U.S.C. § 103(a) is requested.

So far as Claims 8-10, 18-20, 23-24, 29-32, 36-37, 39, 41-51, 53-63, 65-75, 77-85, 87-95, and 97-105 depend respectively from amended Claims 1, 17, 28, 35, 38, 40, 52, 64, 76, 86 and 96, the arguments presented herein with respect to the amended independent claims apply as well to

4356665.1 1203348-US2

their dependent claims. Thus, it is submitted that these dependent claims are also not obvious in view of the proposed combination of Danieli and Beuk. Accordingly, withdrawal of the rejection of Claims 8-10, 18-20, 23-24, 29-32, 36-37, 39, 41-51, 53-63, 65-75, 77-85, 87-95, and 97-105 under 35 U.S.C. § 103(a) is requested.

Double Patenting Rejections

Claims 1, 17 and 33 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1 and 13 of Kirmse et al., U.S. Patent No. 6,699,125 (hereinafter "the '125 patent") in view of Danieli.

Claims 1 and 13 of the '125 patent do not recite "logic to couple a game client to a messenger client to allow the game client to determine an ability of the messenger client to receive messages and to create and send to the messenger client data used to initiate joining a game" as taught by amended Claim 1. Moreover, as discussed herein, Danieli also fails to suggest this claim element. For at least these reasons, amended Claim 1 is not obviousness-type double patenting and is not suggested by the proposed combination of Danieli and Claims 1 and 13 of the '125 patent. Accordingly, withdrawal of the rejection of Claim 1 on the ground of nonstatutory obviousness-type double patenting is requested.

Amended Claims 17 and 33 recite similar, albeit different, elements to those of amended Claim 1. Therefore, for at least the reasons given herein, amended Claims 17 and 33 are also not obviousness-type double patenting and not suggested by the proposed combination of Danieli and Claims 1 and 13 of the '125 patent. Accordingly, withdrawal of the rejection of Claims 17 and 33 on the ground of nonstatutory obviousness-type double patenting is also requested.

4356665.1 1203348-US2

Conclusion

      In view of the above amendment, Applicant's representative believes the pending application is in condition for allowance.

Dated: August 7, 2009   Respectfully submitted,

                                    By___/Scott M. Tobias/_____
                                    Scott M. Tobias
                                      Registration No.: 62,808
                                    DARBY & DARBY P.C.
                                    P.O. Box 770
                                    Church Street Station
                                    New York, New York 10008-0770
                                    (206) 262-8922
                                    (212) 527-7701 (Fax)
                                    Attorneys/Agents For Applicant